

**ROUND MOUNTAIN WATER AND SANITATION DISTRICT
BOARD OF DIRECTORS**

RESOLUTION NO. 2024-3

**A RESOLUTION APPROVING A SOLAR LEASE
AGREEMENT WITH PIVOT ENERGY
DEVELOPMENT LLC**

WHEREAS, the Round Mountain Water and Sanitation District (RMWSD) purchased 40 acres of land on November 2, 1983 that was developed as a discharge site for treated wastewater effluent; and,

WHEREAS, twenty-five (25) acres of that property remains unused and future wastewater treatment upgrades will discharge to Grape Creek, removing the future need for a land wastewater discharge site; and,

WHEREAS, RMWSD explored several options for the beneficial use of that property and concluded that the installation of a large solar array “farm” was the best option; and

WHEREAS, RMWSD contacted a solar company, Pivot Energy Development LLC, and negotiated a long-term lease of a 25-acre portion of the afore-mentioned property for the purpose of installing a large solar panel array that will benefit RMWSD, Westcliffe, Silver Cliff and Custer County.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ROUND MOUNTAIN WATER AND SANITATION DISTRICT AS FOLLOWS:

That the Round Mountain Water and Sanitation District approve and enter into the Solar Lease Agreement with Pivot Energy Development LLC as described in Appendix A of this Resolution

APPROVED THIS 21ST DAY OF MARCH 2024.

By: Charles Bogle
Charles Bogle, Chairman

ATTEST:

Steve Lasswell
Steve Lasswell, Vice Chair



APPENDIX A

SOLAR LEASE

This SOLAR LEASE (the “**Agreement**”) is made as of this 21 day of MARCH, 2024 (the “**Effective Date**”) by and between Pivot Energy Development LLC, a Colorado limited liability company (the “**Company**”), and The Round Mountain Water and Sanitation District (the “**Owner**”). Company and Owner may be referred to as a “Party” or collectively as “Parties”.

RECITALS

- A. Owner owns that certain real property described and generally depicted in the attached Exhibit A (the “**Land**”).
- B. Owner is willing to lease all or a portion of the Land (the “**Leased Area**”), together with any easements, rights-of-way, and other rights granted in this Agreement on the Land (all of the foregoing, collectively, the “**Property**”) to Company, and Company is willing to lease the Leased Area from Owner, for the Intended Use (defined below).
- C. Company wants to develop, construct, own and operate a solar energy collection, conversion, storage, generation, transmission and distribution facility (as described below, the “**Project**”) on the Property.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Owner and Company agree as follows:

1. **DEFINITIONS.**

(a) Rules of Interpretation. The words “hereto”, “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “person” shall include individuals; partnerships; corporate bodies; non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word “including” shall be deemed to be followed by the words “without limitation”.

(b) As used herein, the following terms shall have the meanings set forth beside them:

“**Acreage**” means the number of acres of the Leased Area subject to this Agreement. As of the Effective Date, the Acreage is the number of acres set forth in Exhibit A.

“**Affiliate**” means with respect to a person or entity any other person or entity that, directly or indirectly controls, is controlled by, is under common control with or is related by blood or marriage to, such person or entity. The term “control” as used with respect to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract, judicial order or otherwise.

“**Agreement**” has the meaning set forth in the introductory paragraph.

“Applicable Law” means all applicable laws, statutes, rules, ordinances, orders and regulations of any and all Governmental Authorities with jurisdiction over the Property, the Parties, the Project, or the Intended Use, including zoning and land use laws and regulations.

“Commercial Operations Date” means the first day the Project delivers electricity in commercial quantities (excluding test energy) to the Utility.

“Company” has the meaning set forth in the recitals.

“Conservation Program” means any Conservation Reserve Program, Environmental Quality Incentives Program, Agricultural Conservation Easement Program, the Conservation Security Program, agricultural or conservation restrictions or easements, or any similar federal, state, or local program.

“Construction Start Date” means the date construction commences on the Project as set forth in a notice from Company to Owner. For the avoidance of doubt, construction commencing on the Project shall not include site due diligence required to evaluate the Site’s suitability for the Project including development work, tests, studies, inspections, surveying, and permitting.

“Decommissioning Obligations” means performing the activities described in Section 5(c).

“Easement(s)” shall mean those rights described in Section 7, as detailed in Exhibit B.

“Effective Date” has the meaning set forth in introductory paragraph.

“Environmental Attributes” means renewable energy certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes.

“Event of Default” has the meaning set forth in Section 17(a).

“Force Majeure Event” has the meaning set forth in Section 18.

“Governmental Authority” means any national, federal, state, municipal, county, regional or local government, administrative, judicial or regulatory entity, and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

“Hazardous Materials” means any substance that is regulated by or is defined as a toxic, dangerous or hazardous substance or pollutant under any laws.

“Improvements” means (a) solar energy measurement, collection, conversion, and generation systems and equipment of any type necessary or useful for the conversion of solar energy into electricity and for the storage of such electricity and (b) transmission, distribution, and

communication lines, poles, anchors, support structures, underground cables, and associated equipment and appurtenances, and roads.

“Indemnified Party” has the meaning set forth in Section 13(a).

“Indemnifying Party” has the meaning set forth in Section 13(a).

“Intended Use” means the use of the Property (i) to develop, install, construct, interconnect, maintain, vegetative management, operate, repair, replace and decommission the Project and/or energy storage device(s), (ii) to produce, deliver and sell electricity produced by the Project, and associated Environmental Attributes and Tax Attributes, (iii) to store such equipment, supplies, tools and replacement parts as reasonably required, (iv) and for all uses contemplated in the permits or authorizations relating to the Project, including all activities necessary, incidental or convenient to that use, and any other lawful uses consistent with the operation of the Project.

“Land” has the meaning set forth in the recitals.

“Leased Area” means the area of the Land the Company is leasing.

“Lender” means any financial institution or other person or entity that from time to time provides financing to Company and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns.

“Losses” has the meaning set forth in Section 13(a).

“Memorandum of Lease” has the meaning set forth in Section 19(b).

“Mortgage” has the meaning set forth in Section 10(b).

“Non-Curable Defaults” has the meaning set forth in Section 11(a)(iii).

“Non-Payment Default” has the meaning set forth in Section 17(a).

“Owner” has the meaning set forth in the introductory paragraph.

“Payment Default” has the meaning set forth in Section 17(a).

“Permitted Encumbrances” means those matters of record with the clerk and recorder for the county in which the Land is located as of the Effective Date.

“Project” has the meaning set forth in the recitals.

“Property” means the entire right, title and interest of Company in and to the Owner’s Land, as created by this Agreement, or leasehold estate including the Leased Area and Easements.

“Rent” means Development Rent and Operations Rent.

“SNDA” has the meaning set forth in Section 12(a).

“*Solar Easement*” has the meaning set forth in Section 7(a)(iii).

“*Tax Attributes*” means investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and/or operation of the Project or the output generated by the Project.

“*Term*” means the Development Term and the Operations Term.

“*Utility*” means the local electric power distribution company.

2. LEASE.

(a) Lease of Property. Owner hereby demises and leases to Company, and Company hereby leases from Owner, for purposes described herein, the Leased Area, together with the Easements described below, all subject to the conditions and terms of this Agreement. Owner covenants that Company will have the peaceable and quiet possession of the Property for the Term in accordance with the terms of this Agreement.

(b) Project Specific Information.

“ <i>Decommissioning Rent</i> ”	Means the Operations Rent for the last year prior to expiration of the Operations Term or termination of this Agreement.
“ <i>Development Rent</i> ”	Means two thousand five hundred and 00/100 dollars (\$2,500.00) per year.
“ <i>Development Period</i> ”	Means the time period comprising the earliest of (a) the date that is five (5) years after the Effective Date, (b) Company’s termination of this Agreement, or (c) the start of the Operations Term.
“ <i>Escalator</i> ”	Means 2.5% per annum.
“ <i>Initial Operations Period</i> ”	Means twenty-one (21) years from the Commercial Operations Date.
“ <i>Operations Extensions</i> ”	By notice to Owner, Company will have the right to extend the Operations Term for up to two (2) additional consecutive periods of ten (10) years each beyond the Initial Operations Period.
“ <i>Operations Rent</i> ”	Means one thousand and 00/100 dollars (\$1,000.00) times the Acreage per year.

(c) Defining the Leased Area. During the Development Term, Company may, at its discretion, determine the Project size and the specific location of the Leased Area and the Easements on the Property by means of a survey, and such survey shall then define the Leased Area and the Easements and shall be an amendment to this Agreement as a revised Exhibit A (Leased Area) and Exhibit B (Easements) accordingly; provided that the surveyed Leased Area shall generally be as depicted on the attached Exhibit A. This Section is intended to provide a more accurate surveyed legal description of the Leased Area and not to provide Company with the right to increase the Acreage or change the general location of the Leased Area.

3. **TERM; EARLY TERMINATION.**

(a) This Agreement will consist of a Development Term, an Operations Term, and a Decommissioning Term.

(i) Development Term. The “**Development Term**” will begin on the Effective Date and will terminate at the end of the Development Period.

(ii) Operations Term. The “**Operations Term**” will begin on the earlier of (a) Company’s notice to Owner of the start of the Operations Term, (b) the date that is twelve (12) months after the Construction Start Date, or (c) the Commercial Operations Date, and continue thereafter throughout the Initial Operations Period subject to any Operations Extensions, unless terminated early pursuant to the terms of this Agreement.

(iii) Decommissioning Term. The “**Decommissioning Term**” shall commence upon the earlier of (a) termination of this Agreement or (b) expiration of the Operations Term, and shall continue for the earlier of (a) twelve months or (b) completion of the Decommissioning Obligations.

(b) At any time during the Development Term, including any extensions thereof, Company may, in its sole discretion, terminate this Agreement upon thirty (30) days’ written notice to Owner. Company shall execute and deliver to Owner any amendments to the Memorandum of Lease and/or other documents reasonably necessary to evidence terminating this Agreement. Company, by notice to Owner may, in its discretion, at any time reduce the Acreage of the Leased Area and such reduction will reduce prospectively the Operations Rent due from Company to Owner.

4. **RENT.**

(a) Development Rent. Within thirty (30) days after the later of (i) the Effective Date or (ii) Company’s receipt of two (2) original executed copies of this Agreement and the Memorandum of Lease and a W9 executed by Owner, Company will pay Owner the Development Rent prorated for the first year. Thereafter, on or before January 31 of each year during the Development Term, Company will pay Owner the Development Rent. The Development Rent for a partial calendar year will be prorated based on the number of days elapsed during that calendar year, and Company may offset any unused portion of the Development Rent against any future amounts Company owes Owner. The Development Rent will not be due after the start of the Operations Term.

(b) Operations Rent. Within thirty (30) days of commencement of the Operations Term, Company will pay Owner the Operations Rent prorated for the first year. Thereafter, on or before January 31 of each year during the Operations Term, Company will pay Owner the Operations Rent. The Operations Rent for a partial calendar year will be prorated based on the number of days elapsed during that calendar year, and Company may offset any unused portion of such rent against any future amounts Company owes Owner.

(c) Escalator. On the second January 1 of the Operations Term and on each January 1 thereafter during the Operations Term, the Operations Rent will increase by an amount equal to the Escalator.

(d) Decommissioning Rent. Company will pay Owner the Decommissioning Rent until Company has completed the Decommissioning Obligations; provided that Decommissioning Rent will be paid monthly each in an amount equal to 1/12th of the Decommissioning Rent in arrears on the first day of each calendar month in proportion to the portion of the Property that is not cleared of Company's Improvements and personal property as of the last day of the prior calendar month.

5. **COMPANY'S USE OF THE PROPERTY; DECOMMISSIONING OBLIGATIONS.**

(a) Use of Property during Development Term. Subject to Owner's access rights set forth in Subsection (e), below, during the Development Term, Company will have the exclusive right to perform development work, tests, studies, inspections, surveying, permitting, interconnection, grading, and other activities associated with constructing the Project on the Property. Owner reserves the right to use the Property during the Development Term until the Construction Start Date for uses that do not and will not interfere with the Company's development activities and access, including farming. Company may divide the Property between two or more separate collections of associated Projects.

(b) Use of Property during Operations Term. During the Operations Term, Company will have exclusive use and possession of the Leased Area, subject only to the Permitted Encumbrances and Owner's access rights set forth in Subsection (e), below. Company will have the right to use the Property for any of the Intended Uses including grading the land, erecting, relocating, repairing, replacing, maintaining, operating and removing Improvements.

(c) Decommissioning. Promptly following the Operations Term expiration or an earlier termination of this Agreement, Company shall cease the Project's commercial operation, shall remove all Improvements, structures, equipment, and transmission lines from the Property, and dispose of all Project materials in accordance with Applicable Law, all at Company's sole cost and expense within twelve (12) months of the date of termination and will record a release of its interest under this Agreement (such actions the "**Decommissioning Obligations**"). Company shall perform the Decommissioning Obligations during the Operations Period or promptly after termination of this Agreement due to any reason other than an Owner default.

(d) Decommissioning Security. Commencing upon thirty (30) days after the Commercial Operations Date, Company shall either post a (i) bond from a bonding company (from an issuer with an A.M. Best's, or equivalent, rating of not less than A) licensed in the state where

the Property is located, (ii) letter of credit, or (iii) cash escrow for the purpose of ensuring Company's compliance with the Decommissioning Obligations (the "**Restoration Security**") in an amount sufficient to decommission the Project. The Restoration Security will provide that it may be drawn upon by Owner in the case of Company's failure to timely satisfy its Decommissioning Obligations under this Agreement. Notwithstanding the foregoing, if Company is required to post a bond or letter of credit or issue a guaranty for decommissioning of the Project ("**Government Security**"), including as a condition of approval from any Governmental Authority, then the posting or issuance of such Government Security shall be deemed to satisfy Company's obligation to provide the Restoration Security.

(e) Owner Access. During the Term, Owner shall have full and unimpeded access through the remaining Land owned or controlled by Owner that does not encompass the Leased Area via the existing roadway running through Leased Area. Company acknowledges that Owner uses the non-leased portion of the Land to apply treated effluent and Owner requires access over the existing roadway for such a purpose and other District-related purposes. Company and Owner shall cooperate regarding maintenance of the roadway.

6. **CONSTRUCTING THE PROJECT; OWNER RESTRICTIONS.**

(a) Governmental Approvals. Company's ability to use the Property is contingent upon obtaining all certificates, permits, licenses, waivers, variances, and other approvals that may be required by any governmental authorities ("**Permits**") to construct, operate and maintain the Project. Owner shall reasonably cooperate with Company in its effort to obtain such Permits, including signing documents. Company will be responsible for obtaining, maintaining and complying with the Permits and all Applicable Laws with respect to obtaining any Permits necessary or appropriate for the construction of the Project.

(b) Waiver of Setback Requirements. Owner consents to Company's location of the Improvements at any location upon the Property, including at or near property lines.

(c) [Intentionally omitted].

(d) Improvements Affecting the Project. Company may, as it deems necessary, remove, trim, prune, top or otherwise control the growth of any tree, shrub, or other vegetation or dismantle, demolish, and remove any improvement, structure, embankment, impediment, berm, wall, fence or other object, on or that intrudes (or could intrude) into the Property or that could obstruct, interfere with or impair the Project or the Intended Use; provided that no exterior fencing shall be removed permanently or temporarily without Owner approval, such approval not to be unreasonably withheld.

(e) Right to Control Access. Owner shall not enter the Leased Area without Company's consent, such consent not to be unreasonably withheld, conditioned or delayed.

(f) [Intentionally omitted].

(g) Mineral Leasing and Development. To the extent Owner holds or controls any mineral interests connected to the Property, Owner grants to Company a surface use

relinquishment of such interest such that neither Owner nor any Owner party may use the surface of the Property so long as this Agreement is in effect.

(h) Company's Activities. Owner acknowledges Company is intending to use the Property for the Intended Use. Owner will not grant any rights under this Agreement or the Land to any other party which would be reasonably expected to impair Company's rights under this Agreement without Company's prior written consent. Owner will give Company prompt notice of any damage or defective condition in any part or appurtenance of the Property of which Owner is aware and that could reasonably be expected to affect the Project. Notwithstanding any other part of this Agreement but subject to the applicable notice and cure periods, the Parties agree that (A) Company would be irreparably harmed by a breach of the provisions of this Section, (B) an award of damages would be inadequate to remedy such a breach, and (C) Company will be entitled to equitable relief, including specific performance to the fullest extent available under Applicable Law, to compel compliance with the provisions of this Section.

(i) Company Satisfaction of Owner Assessments. Owner shall promptly pay all obligations secured by encumbrances against the Land (whether or not such encumbrances are Permitted Encumbrances) and shall not allow any uncured default to occur under obligations secured by encumbrances against the Land. Company will have the right, but not the obligation after providing at least ten (10) days' notice to Owner, to perform, acquire, or satisfy any assessment, charge, lien, encumbrance, agreement or obligation of Owner which is or may become a lien or encumbrance on the Property or Improvements, and Owner will reimburse such amounts to Company upon demand, and/or Company may deduct these amounts from future Rent due Owner from Company.

(j) Utilities. Company is responsible for utilities furnished to the Leased Area and Project and used by Company throughout the Term, and for all other costs and expenses in connection with the Project use, operation, and maintenance.

7. GRANT OF EASEMENTS.

(a) Owner grants the following easements (the "**Easements**") to Company as of the Effective Date for the following purposes, all as detailed on Exhibit B:

(i) Intentionally Omitted.

(ii) a non-exclusive easement on Owner's Land to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the Project to the Utility electrical distribution system, the location of which the Utility will determine before the Commercial Operations Date; provided that Owner's use of the non-leased portion of the Land for the application of treated effluent shall not be interfered with and this non-exclusive easement shall be subordinate to such right of Owner;

(iii) a negative solar easement, upon which Owner shall not construct buildings or structures, or plant new trees or vegetation of any type, or allow any trees or other vegetation on the Land which now or hereafter, in Company's reasonable opinion, may be

a hazard to the Project, overshadow or otherwise block or interfere with sunlight access to the Project and/or interfere with Company's exercise of its rights hereunder (the "**Solar Easement**"). Company may (but shall not be obligated to) remove, at Owner's cost, any vegetation, buildings or other structures which violate this easement. Notwithstanding anything herein to the contrary, Owner shall reimburse Company for removal costs as an abatement of Rent. The Solar Easement is measured at angles of three hundred sixty (360) degrees horizontally and three hundred sixty (360) degrees vertically from the boundaries of the Land; and

(b) Owner's grant of Easements in Sections 7(a)(ii) through 7(a)(iii) shall commence on the Effective Date and continue throughout the Term and any extensions of the Term, and for the time necessary and convenient to perform the Decommissioning Obligations, if such obligations extend beyond the Term.

(c) If required by the Utility, Owner shall grant to the Utility a non-exclusive right on the Land to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect each unit of the Project to the Utility electrical distribution system, the location of which the Utility will determine before the Commercial Operations Date. Owner's grant under this Section 7(c) shall commence on its effective date and continue through the Term and any extensions of the Term, unless otherwise required by the Utility. Any non-exclusive right granted under this Section 7(c) shall be subject to Owner's use of the non-leased portion of the Land for the application of treated effluent.

(d) All Easements shall burden the subject portions of the Land and shall run with the land for the benefit of Company, its successors and assigns and their respective agents, contractors, subcontractors and licensees.

(e) At Company's request, Owner shall timely execute agreements necessary to record the Easements granted under this Section 7.

8. **TITLE AND LIENS.**

(a) Mechanics' Liens. Company will keep the Leased Area free and clear of all mechanics' liens resulting from construction done by or for Company on the Leased Area, and Company will have sixty (60) days after first becoming aware of any mechanics' lien encumbering the Leased Area to (i) pay such mechanics' lien or (ii) contest the correctness or the validity of any such mechanics' liens if, within such sixty (60) day period, Company procures and records a bond in an amount sufficient to satisfy the claim of the lien or otherwise removes such lien from the Leased Area.

(b) Title. Owner represents and warrants that Owner has marketable fee title to the Land subject to no liens, easements, options or other encumbrances other than the Permitted Encumbrances.

(c) Ownership of Improvements. The Project, all development rights and entitlements, and all Improvements on the Property are, and will remain, the property of Company; the Improvements may be removed by Company in its sole discretion, at any time, and Owner will

have no right, title or interest in the Improvements. The Parties agree that all Improvements constructed or installed on the Property are severed by agreement and will remain severed from the Property and will be considered with respect to the interests of the Parties as the personal property of the Company. Owner waives all liens or rights, statutory or common law, or claims that it may have in the Improvements including, without limitation, any right of distraint.

(d) Environmental Attributes. The electricity generated by the Project, and its related Environmental Attributes and Tax Attributes are owned exclusively by Company, and neither Owner nor anyone claiming through Owner has, or shall have any lien, security interest, or other encumbrance on the electricity generated by the Project, its related Environmental Attributes and Tax Attributes, or any other Project output or benefit.

9. REPRESENTATIONS AND WARRANTIES.

(a) Each Party represents and warrants to the other Party as of the Effective Date:

(i) Organization and Qualification. If an entity, it is duly organized and validly existing under the laws of the state of its purported organization with all power and authority to own or lease and dispose of all of its properties and assets, to conduct its business as presently conducted, and to enter into and carry out this Agreement and is authorized to transact business in the State in which the Property is located.

(ii) Authority. It has all requisite power and authority to execute and deliver this Agreement and each of the related documents to which it is a party, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement has been duly and validly approved, and no other action on the part of the Party is necessary to approve the Agreement and/or to consummate the transactions contemplated in the Agreement.

(iii) No Violation or Conflict. Neither the execution and delivery of this Agreement or any of the related documents to which it is a party, nor the performance of its obligations hereunder and thereunder, nor the consummation of the transactions contemplated hereby and thereby will, directly or indirectly (with or without notice or lapse of time or both), (1) violate, contravene, conflict with or breach any term or provision of its organizational documents, (2) result in a violation or breach of, or constitute a default under, or require any consent under, any contract or other instrument or obligation to which it is a party, or (3) violate any laws applicable to it or any of its Affiliates or any of their respective properties or assets.

(iv) Legal Proceedings. It is not a party to any pending or threatened legal, administrative, arbitral or other proceedings, claims, actions, litigation, or governmental or regulatory investigations of any kind or nature whatsoever that will have a direct impact on this transaction or Agreement. To such Party's actual knowledge, there is no injunction, which imposes any restrictions on such Party with respect to the Agreement or the Property.

(b) Owner's Additional Representations and Warranties. Owner represents and warrants that:

(i) Hazardous Materials. To Owner's knowledge, there are no Hazardous Materials on or under the Property and Hazardous Materials have not been stored, handled, disposed of or released on or about any part of the Property. Owner has not released or generated on the Property any Hazardous Materials, except to the extent permitted by Applicable Law. Company understands and acknowledges the Land has been used for agricultural purposes, and Hazardous Materials, including without limitation pesticides and fertilizers, have historically been used on the Land in the ordinary course of Owner's agricultural operations. To Owner's knowledge, such Hazardous Materials have been used in compliance with Applicable Law.

(ii) No Conservation Programs. To Owner's knowledge, there are no Conservation Programs that burden the Land and could impact the Intended Use. Owner has the duty to inform Company of any such program and shall provide documentation of such Conservation Program.

(iii) No Brokers. It has not dealt with any broker, investment banker, agent or other person that may be entitled to any commission or compensation in connection with the transaction contemplated hereby.

10. **ASSIGNMENT.**

(a) Owner Transfers. Owner will give Company at least thirty (30) days written notice before any transfer or assignment of all or a portion of the Land. Owner may assign this Agreement and rights hereunder in Owner's sole discretion, (i) to any person or entity to whom Owner contemporaneously transfers all of its right, title and interest in and to the Property on which the Leased Area and Easements are located, or (ii) as a collateral assignment to a financier. Company shall not be responsible for payment of Rent to any assignee or transferee of Owner unless Owner provides the notification required in this Section.

(b) Right to Mortgage, Assignment. Company may assign, mortgage, transfer or sublease this Agreement or Company's interest in the Property to any person or entity, without the prior written consent of Owner, as follows: (i) to an Affiliate of Company; (ii) to any entity that acquires all or substantially all of Company's interest in the Project or the Project assets; (iii) Company may grant subleases, separate easements, co-easements, subeasements, licenses or similar rights to one or more assignees or other third parties (including easements and similar associated rights to construct, operate, and maintain transmission, collection, distribution, interconnection or switching lines or facilities), provided that Company is not released from its obligations under this Agreement in connection with these grants; (iv) Company may collaterally assign all or any part of their interests under this Agreement; or (v) Company may mortgage, grant or pledge its right, title or interest under this Agreement and/or in the Improvements, to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation ("**Mortgage**"). Any other assignment will require Owner's prior written approval, which Owner will not unreasonably condition, delay, or withhold. Any permitted assignor hereunder will be released from all obligations under this Agreement that accrue after the date of its assignment.

(c) Notice To Owner. Company upon entering into a transfer, assignment or Mortgage will give notice of the same (including the name and address of the assignee, or Lender, as the case

may be) to Owner; provided, however that the failure to give such notice will not constitute a default or Event of Default.

11. FINANCING PROVISIONS.

(a) Lender Protections. Notwithstanding any other provision of this Agreement:

(i) A Lender will have the absolute right to do one, some or all of the following: (a) assign its Mortgage; (b) enforce its Mortgage; (c) in the event of a default under its Mortgage: (i) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to this Agreement; (ii) take possession of and operate the Improvements or the Project; (iii) assign or transfer this Agreement to a third party; (iv) exercise any rights of Company with respect to this Agreement; or, (v) cause a receiver to be appointed to do any of the foregoing. Owner's consent will not be required for any of the foregoing or for any third party to acquire title via foreclosure or assignment in lieu of foreclosure; and, upon acquisition of this Agreement by a Lender or any other third party who acquires the same from or on behalf of the Lender or via foreclosure or assignment in lieu of foreclosure, Owner will recognize the Lender or such other party (as the case may be) as Company's proper successor, and this Agreement will remain in full force and effect.

(ii) Owner shall simultaneously notify Company and all Lenders who have given advance notice of their interest in this Agreement to Owner, of any failure by Company to perform any Company obligations under this Agreement, which notice shall set forth in reasonable detail the facts pertaining to such failure and specify a reasonable method of cure.

(iii) Each Lender shall have the right, but shall not in any manner whatsoever be obligated, to cure the Company Event of Default within the same period of as set forth in Section 17(a) as is given to Company plus, in each instance, the following additional time periods: (i) sixty (60) additional days in the event of any Payment Default; and (ii) ninety (90) additional days in the event of any Non-Payment Default; provided, however, that (a) such ninety (90) day period will be extended for the time reasonably required by the Lender to complete such cure, including the time reasonably required for the Lender to obtain possession of the Property (including foreclosure proceedings). Notwithstanding the foregoing, the Lender will not be required to cure those Events of Default which are not reasonably susceptible of being cured or performed by Company ("**Non-Curable Defaults**"). Each Lender will have the absolute right to substitute itself for Company and perform the duties of Company under this Agreement or with respect to the Property for purposes of curing such default or Event of Default. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes each Lender (and their respective employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all of the rights and privileges of Company under this Agreement. Owner will not seek to terminate this Agreement before expiration of the cure periods available to each Lender as set forth above. Further, (1) neither the bankruptcy nor the insolvency of Company, by themselves, will be grounds for terminating this Agreement as long as the Rent and all other amounts payable by Company under this Agreement are paid by a Lender in accordance with the terms thereof and (2) Non-Curable Defaults will

be deemed waived by Owner upon the Lender's completion of foreclosure proceedings or other acquisition of the Property.

(iv) A Lender that does not directly hold an interest in the Property, or that holds a Mortgage, will not have any obligation under this Agreement before the time that such Lender succeeds to absolute title to such estate; and such Lender will be liable to perform obligations under this Agreement only for and during the period of time that such Lender directly holds such absolute title. Further, if a Lender elects to (i) perform Company's obligations under this Agreement, (ii) continue Company's operations on the Property, (iii) acquire any portion of Company's right, title or interest in the Property or under this Agreement, or (iv) enter into a new agreement as provided in this Agreement, then such Lender will not have any personal liability to Owner in connection therewith, and Owner's sole recourse in the event of default by such Lender will be to execute against such Lender's interest in the Property, the Improvements and the Project. Moreover, any Lender or other party who acquires the Property pursuant to foreclosure or an assignment in lieu of foreclosure will not be liable to perform any obligations under this Agreement to the extent the same are incurred or accrue after such Lender or other party no longer has ownership of such Property.

(v) If this Agreement is rejected pursuant to bankruptcy law or any other law affecting creditor's rights or is terminated for any reason (except for a termination by Company in its discretion), then, Owner will, immediately upon written request from a Lender, if made within ninety (90) days after such termination, rejection, or disaffirmance, and so long as such Lender within this time-frame has cured any Payment Default as provided for in this Agreement, without demanding additional consideration, enter into a new agreement in favor of such Lender, which new agreement will (i) contain the same covenants, agreements, terms, provisions and limitations as this Agreement, (ii) be for a term commencing on the date of such termination, rejection or disaffirmance, and continuing for the remainder of the Term including any rights to extend the Term and (iii) enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Owner; and, until such time as such new agreement is executed and delivered, the Lender may enter, use and enjoy the Property and conduct operations on the Property as if this Agreement were still in effect. At the option of the Lender, the new agreement may be executed by a designee of such Lender, without the Lender assuming the burdens and obligations of Company thereunder.

(vi) If Owner has been given written notice of the name and mailing address of a Lender, (i) Owner will not agree to any material modification or amendment to this Agreement and (ii) Owner will not accept a surrender or termination of this Agreement; in each such case without the prior written consent of each such Lender.

12. **SUBORDINATION AND NON-DISTURBANCE.**

(i) Owner may grant a mortgage(s), deed(s) of trust or other security instrument on all or part of its interest in the Land if the mortgagee enters into a subordination, non-disturbance, attornment agreement reasonably acceptable to Company ("SNDA") providing for (i) the subordination of the rights and interests of Company to the mortgage, (ii) for mortgagee's

agreement of non-disturbance of Company, (iii) such mortgagee agrees that the Agreement shall remain in full force and effect, (iv) Company shall be permitted to exercise all of its rights and remedies thereunder the Agreement, and (iv) for attornment by Company to the mortgagee or its designee after any foreclosure of the mortgage. Any encumbrance by Owner will not be deemed to give any such mortgagee (i) any greater rights than Owner under this Agreement, (ii) the right to cancel the Agreement, or (ii) affect any Mortgage as set forth in Section 10(b).

(ii) If Owner's interest in the Land is encumbered by a Mortgage prior to the recordation of the Memorandum of Lease, if requested by Company, Owner will obtain and deliver to Company a SNDA from the applicable mortgagee in a form reasonably acceptable to Company and the Lender (if any) evidencing compliance with the requirements of this Agreement. Company may record any such agreement, whether related to an existing Permitted Encumbrance or an encumbrance arising after the Effective Date, in the county land records.

13. **INDEMNITY.**

(a) Indemnification. Company ("**Indemnifying Party**") agrees to indemnify, defend and hold harmless Owner and Owner's officers, employees and agents ("**Indemnified Party**") against any and all claims, losses, liabilities, obligations, damages, cost and expenses, including reasonable attorney fees (collectively, the "**Losses**"), to the extent arising from, or out of, any claim for, or arising out of, any injury to or death of any person or loss or damage to property, to the extent resulting from or arising out of (i) any operations of the Indemnifying Party on the Property, (ii) any negligent act or omission or willful misconduct on the part of the Indemnifying Party, its employees', contractors, and agents' or anyone else engaged in doing work for the Indemnifying Party, or (iii) any uncured material breach of this Agreement by the Indemnifying Party. Company shall indemnify, defend and hold harmless Owner from and against any and all Losses arising from or out of any Hazardous Material, pollution or contamination that violates any local, state or federal environmental protection law, policy or regulation, that is caused by the Company or any of its employees, invitees, agents or contractors following the Effective Date. This indemnification will not apply to Losses to the extent (a) caused by any act or omission on the part of the Indemnified Party or its Affiliates, officers, employees and agents, or (b) covered by insurance to the extent such proceeds are received by the Indemnified Party.

(b) Indemnification Procedure. The Indemnifying Party's obligations under this Section are contingent upon (i) its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party hereto, and (ii) the Indemnified Party's granting such Indemnifying Party the right to control the defense and settlement of the matter for which indemnification is being given, provided that no such settlement shall be agreed to or otherwise effective unless the same has been approved in advance by the Indemnified Party, such approval not be unreasonably withheld, and the Indemnified Party shall have the right to participate in such defense with counsel selected by the Indemnified Party, and all costs and expenses of such counsel selected by the Indemnified Party shall be borne exclusively by the Indemnified Party.

14. **INSURANCE.**

Company will maintain or cause to be maintained at all times proper and adequate insurance, without lapse in coverage, with insurers authorized to issue insurance in the State in

which the Leased Area is located and in amounts as are customary in the industry and for projects like the Project , but in no event shall the coverages be less than the limits set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

15. TAXES.

(a) Taxes. As of the Effective Date, Company agrees to pay or cause to be paid when due all state and local personal or real property taxes, municipal charges and assessments due against the Improvements and Project, as applicable. Owner shall pay when due any real and personal property taxes attributable to the underlying value of the Property or owner's improvements on the Property, as applicable. For the avoidance of doubt, Company shall be responsible for any increase in real property taxes during the Operations Period to the Leased Area that are solely attributable to the Project and Improvements. If Company's use of the Leased Area results in the revocation of a classification of the Leased Area as "agricultural land", "forestry land" or similar classification, thereby triggering liability for "rollback" taxes, Company shall pay the portion of such rollback tax liability attributable to Company's use of the Leased Area during the Operations Term. Furthermore, Company shall be responsible for any increase in taxes resulting from a change in use or rezoning of the Leased Area. Company shall not be responsible for real property tax increases that are not attributable to the Project nor for real property taxes associated with areas outside of the Leased Area.

(b) Tax Cooperation and Payment. Each Party may contest in good faith any tax assessments or payments, provided that all payments are made when due. Owner will cooperate with Company to minimize any taxes related to the Project. If Owner fails to pay any taxes for which Owner is responsible hereunder, Company may pay those amounts and Owner shall then be obligated to reimburse Company for the amounts paid or Company may offset such amounts from Rent owed. Company shall pay all taxes for which Company is directly billed on or before the date such amounts are due, subject however to the right of Company to contest taxes in accordance with this Agreement and Applicable Law. Company shall pay Owner, within thirty (30) days after Company's receipt of the applicable invoice from Owner, the amount of such taxes for which Company is responsible hereunder and which have not been billed directly to Company. Owner will submit copies of tax bills or notices of assessments, appraisals or statements applicable to the Project to Company promptly upon receipt thereof and, to the extent Owner pays the same directly to the taxing authorities, Owner will promptly provide evidence of such payment to Company.

16. CONDEMNATION; CASUALTY.

(a) If there is a condemnation of the Leased Area, the Easements and/or the Property (or a portion thereof which is sufficient to render the Property unsuitable for Company's purposes), including, without limitation, a transfer of the Property or a part thereof by consensual deed in lieu of condemnation, then this Agreement shall, at the option of Company, terminate upon transfer of title to the condemning authority, without further liability to either party hereunder (except as otherwise expressly provided herein). The Rent due hereunder shall be prorated to the date of taking, and Owner shall reimburse to Company the portion of the then current Rent attributable to the period subsequent to such taking. Company and Owner shall be entitled to pursue their own separate condemnation awards with respect to any such taking (which award to Company may

include, where applicable, the value of the Project, moving expenses, prepaid rent to the extent not reimbursed to Company by Owner, and business dislocation expenses).

(b) If the Property or Improvements are damaged or destroyed, Company shall have the right, but not the obligation, to elect to not rebuild, replace or repair any Improvement and to terminate this Agreement as of the date that such damage or destruction occurred, without prejudice to or otherwise affecting any rights or remedies that Company may have hereunder or at law or in equity, and the Rent due hereunder shall be prorated to such date of termination.

17. **DEFAULT; REMEDIES.**

(a) Default. Subject to the rights of Lender as provided in this Agreement, each of the following events will constitute an “**Event of Default**” by a Party (a) the failure or omission by a Party to pay amounts required to be paid pursuant to this Agreement when due, and such failure or omission has continued for sixty (60) days after written notice from the other Party (a “**Payment Default**”) or (b) the failure or omission by a Party to observe, keep or perform any of the other material terms, agreements or conditions set forth in this Agreement, and such failure or omission has continued for ninety (90) days (or such longer period as may reasonably be required to cure such failure or omission, provided that cure has commenced and such Party is diligently proceeding to complete such cure) after written notice from the other Party (a “**Non-Payment Default**”).

(b) Company Event of Default. Subject to the rights of Lender as provided in this Agreement, upon the occurrence of an Event of Default by Company, Owner may enforce, by all proper and legal suits and other means, its rights under this Agreement, including the collection of sums due under this Agreement. Notwithstanding any part of this Agreement or any rights or remedies Owner has at law or in equity, Owner will not (and hereby waives the right to) start or pursue any action to cancel, reform, rescind, or terminate this Agreement except for a Payment Default. By this limitation, Owner does not limit or waive its right to pursue damages or performance (as may be due) from Company as set forth in this Agreement.

(c) Owner Event of Default. If Owner fails to perform any of its obligations hereunder, including failure to perform with respect to any obligations secured by encumbrances against the Property, Company may offset against any amounts owing to Owner hereunder any amounts paid by Company to cure such non-performance by Owner and exercise any other remedies available under this Agreement or Applicable Law, including terminating the Agreement.

18. **FORCE MAJEURE.**

If either Party’s performance under this Agreement is prevented or delayed, despite such Party’s commercially reasonable efforts to perform, by causes beyond such Party’s reasonable control, including strikes, riots, fires, floods, lightning, rain, earthquake, extraordinary wind or other weather events, war, invasion, insurrection, unavailability of resources due to national defense priorities, any act of God, binding orders, actions or inactions of any court or Governmental Authority, local, state or federal laws, regulations or ordinances, technological impossibility or any other similar or dissimilar cause beyond its reasonable control and not attributable to its neglect (each, a “**Force Majeure Event**”), then upon such claiming Party

providing notice in reasonable detail to the other Party the requirement of performing such obligation will be postponed by a period equal to the period of time such Party's performance under this Agreement is prevented or delayed by such Force Majeure Event. The affected party shall use reasonable efforts to avoid or remove such causes of nonperformance or delay and shall continue performance hereunder whenever such causes are removed.

19. GENERAL PROVISIONS.

(a) Binding Effect. This Agreement shall run with the Land and will bind the Parties, their personal representatives, successors and assigns.

(b) Confidentiality; Recording. Neither Owner nor Company will record this Agreement. Concurrently with their execution of this Agreement, the Parties have executed the memorandum of this agreement attached as Exhibit C (the "**Memorandum of Lease**"), which Company will record with the Clerk and Recorder for the County in which the Property is located. A Lender may record Company's mortgage of this Agreement to the Lender.

(c) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original and all of which will be deemed to be the same instrument. Executed copies of this Agreement will be regarded as originals.

(d) Dispute resolution; Attorneys' Fees. The Parties will attempt amicable resolution of any disputes arising out of or related to this Agreement. If thirty (30) days after initiation amicable resolution fails, as either Party determines in its discretion, then either Party may file suit. Venue will be in the County where the Property is located.

EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A JURY TRIAL IN ANY ACTION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. EACH PARTY WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH PARTY'S ENTERING THIS AGREEMENT.

(e) Entire Agreement. This Agreement contains all agreements of the Parties with respect to its subject matter. No prior agreement or understanding pertaining to any such matter will be effective. This Agreement may be modified only by a writing signed by the Parties. All exhibits and schedules attached to this Agreement are incorporated by this reference.

(f) Estoppel Certificate; Finance-Related Amendments. Owner will at any time upon not less than fifteen (15) days' prior written notice from Company execute, acknowledge and deliver a statement in writing (a) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect) and the date to which the Rent and other charges have been paid, (b) acknowledging that there are not, to Owner's knowledge, any uncured Events of Default, or specifying such uncured Events of Default if any are claimed and (c) certifying or

acknowledging any other reasonably requested information. Any such statement may be conclusively relied upon by any Lender or any prospective assignee of the Project. Owner acknowledges Company will be obtaining financing to develop, construct, own and operate the Project and agrees to make such commercially reasonable amendments to this Agreement as may be reasonably required in order to facilitate such financing; provided that such amendments do not adversely affect Owner's rights under this Agreement or otherwise adversely affect any of the economic terms of this Agreement.

(g) Further Assurances. Owner agrees to perform such further acts and execute such further documents as may be necessary or appropriate to carry out the express intents and purposes of this Agreement. Owner shall promptly execute and deliver to the title company that is issuing a title policy such landowner affidavits and/or certificates that the title company may reasonably request.

(h) Governing Law. This Agreement will be construed and enforced in accordance with and governed by the internal laws (and not the conflicts law) of the State in which the Property is located.

(i) No Joint-Venture or Partnership. Nothing contained in this Agreement will be deemed or construed to create or constitute a partnership, joint venture, or other co-ownership by and between the Parties.

(j) No other covenants, representations, or warranties. Company makes no covenants except as expressly set forth in this Agreement. Company makes no representations, warranties, commitments or guarantees of any kind as to the likelihood of Company successfully developing, financing and/or constructing the Project on the Property.

(k) Notices; Payments. The address of each Party for all notices required or permitted to be given under this Agreement will be as follows:

If to Owner:

Round Mountain Water & Sanitation District
PO Box 86
Westcliffe, CO 81252

If to Company:

Pivot Energy Development LLC
1601 Wewatta St., Suite 700
Denver, CO 80202
Attention: VP Project Development

All notices will be in writing, and may be delivered by any of the following methods, with all delivery charges and/or postage pre-paid: personal delivery (including delivery by private courier services), reputable overnight courier service (e.g. Federal Express, UPS, DHL), or United States first class certified mail with return-receipt requested, email transmission with receipt confirmed

by reply email, or facsimile transmission with receipt confirmed.

(l) Severability. If any term or provision of the Agreement or its application to any person or circumstance will, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable will not be affected, and each such remaining term and provision of this Agreement will remain valid and will be enforced to the fullest extent permitted by Applicable Law.

(m) Survival. Upon the expiration or other termination of this Agreement, the respective rights and obligations of the Parties hereto shall survive such expiration or other termination to the extent necessary to carry out the intentions of the Parties under this Agreement.

(n) Waiver. No waiver by Owner or Company of any provision of this Agreement will be deemed a waiver of any other provision of this Agreement or of any subsequent breach of the same or any other provision. A Party's consent to or approval of any act will not be deemed to render unnecessary the obtaining of such Party's consent to or approval of any subsequent act.

20. **ADDITIONAL PROVISIONS.**

(a) Governmental Immunity. Owner, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to Owner and its officers or employees.

(b) Subject to Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligations of Owner not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of Owner hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties entered into this Solar Lease as of the Effective Date.

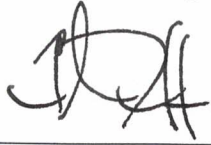
OWNER

COMPANY

The Round Mountain Water and Sanitation District

Pivot Energy Development LLC

By: Charles Bogle

By: 

Name: CHARLES BOGLE
Title: Authorized Representative

Name: Tom Hunt
Title: Authorized Representative

**EXHIBIT A TO
DESCRIPTION OF THE LAND**

OWNER'S LAND:

THAT CERTAIN REAL PROPERTY LOCATED IN CUSTER COUNTY, COLORADO,
DESCRIBED AS:

Parcel	Total Parcel Acreage
0010229201	40

For Owner's title to the Land, reference is herein made to a deed dated November 2, 1983, and recorded at the Custer County Registry of Deeds at Reception Number: 134467.

LEASED AREA:

Total Acreage of Lease Area is twenty-five (25) Acres.



Parcel Summary

Parcel Number 0010229201
Location Address
Brief Tax Description SE4SE4 SEC 7 22 72 CONT 40A DESC BK 189 P 225
(Note: The Description above is not to be used on legal documents.)
Tax District Rural Custer County (District 016)
Levy Rate 66.087
Property Usage
Acreage 40

[View Map](#)

Owner Information

ROUND MTN WATER &
SANITATION
PO BOX 56
WESTCLIFFE CO 81252-0066

EXHIBIT B

Easements

The Easements shall mean those areas of land and rights thereon described in Section 7 of the Agreement. During the Development Term, Company may determine the Easements' boundaries by means of a survey, and such survey shall then define the Easements and shall be an amendment to this Agreement as a revised Exhibit B.

EXHIBIT C
FORM OF
MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Pivot Energy Inc.
Attention: Title Department
1601 Wewatta St., Suite 700
Denver CO 80202

(Space above this line for Recorder's use only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of MARCH 21, 2024, by and between The Round Mountain Water and Sanitation District whose residence/ mailing address is PO Box 86, Westcliffe, CO 81252 ("**Owner**"), and Pivot Energy Development LLC, a Colorado limited liability company, whose address is 1601 Wewatta St., Suite 700, Denver CO 80202 ("**Company**") (Owner and Company the "**Parties**" and each a "**Party**"), and provides as follows:

This Memorandum of Lease provides notice of the Solar Lease Agreement dated MARCH 21, 2024, (the "**Lease**") in which Company will construct, operate and maintain a solar facility (the "**Project**").

LESSOR/OWNER: The Round Mountain Water and Sanitation District

LESSEE/COMPANY: Pivot Energy Development LLC

DESCRIPTION OF PROPERTY: Company is leasing a portion of the Owner's Land, as more particularly described in the attached Exhibit A ("**Leased Area**") as well as in and to any easements, rights-of-way, and other rights and benefits relating or appurtenant to the Land (collectively "**Property**"). The Lease also restricts certain uses of and grants certain interests in and to the Property.

For Owner's title to the Land, reference is herein made to a deed dated November 2, 1983, and recorded at the Custer County Registry of Deeds at Reception Number: 134467.

LEASE COMMENCEMENT DATE: as of MARCH 21, 2024 (the "**Effective Date**").

TERM OF LEASE:

The Term of the Lease consists of a Development Term and Operations Term.

The Development Term is five (5) years from the Effective Date.

The Operations Term starts on the earlier of: (a) Company's notice to Owner of the start of the Operations Term; (b) the date that is twelve (12) months after the date of the start of construction of the Project as set forth in a notice from Company to Owner; or, (c) the commercial operations date of the Project and continuing thereafter until the date that is twenty-one (21) years after this date subject to extensions as detailed below.

RIGHTS OF EXTENSION:

Company has the option to extend the Operation Term of the Lease for two (2) additional and successive ten-year terms, as provided in the Lease.

NO FIXTURE:

The Project, as defined in the Lease, installed and operated by Company at the Property shall not be deemed a fixture. The Project is Company's personal property and Owner has no right, title or interest in the Project. Further, Owner has waived all right of levy for rent, all claims and demands against the Project and all rights it may have to place a lien on the Project.

EASEMENTS:

Company has acquired the following Easements. The term of the Easements is co-extensive with the term of the Lease. The Easements are more particularly described in Exhibit B attached hereto.

(i) Intentionally Omitted;

(ii) A non-exclusive right on Owner's Land to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the Project to the Utility electrical distribution system, the location of which the Utility will determine before the Commercial Operations Date; provided that Owner's use of the non-leased portion of the Land for the application of treated effluent shall not be interfered with and this non-exclusive easement shall be subordinate to such right of Owner;

(iii) a negative solar easement, upon which Owner shall not construct buildings or structures, or plant new trees or vegetation of any type, or allow any trees or other vegetation on the Property which now or hereafter, in Company's reasonable opinion, may be a hazard to the Project, overshadow or otherwise block or interfere with sunlight access to the Project and/or interfere with Company's exercise of its rights hereunder (the "**Solar Easement**"). Company may

(but shall not be obligated to) remove, at Owner's cost, any vegetation, buildings or other structures which violate this easement. Notwithstanding anything herein to the contrary, Owner shall reimburse Company for removal costs as an abatement of Rent. The Solar Easement is measured at angles of three hundred sixty (360) degrees horizontally and three hundred sixty (360) degrees vertically from the boundaries of the Land; and

All Easements shall burden the Property and shall run with the land for the benefit of Company, its successors and assigns (including any permitted assignees of Company's rights under the Lease), and their respective agents, contractors, subcontractors and licensees.

The Parties have executed and recorded this Memorandum of Lease for the purpose of giving record notice of the Lease, of the exclusive easements, leases, and rights it grants, and of certain restrictions it imposes. The Agreement runs with the Property and includes a quiet enjoyment clause. All of the conditions, covenants, and terms regarding the Lease are more particularly set forth in the Lease, which is incorporated by this reference. In the event of any conflict between the conditions and terms set forth in this Memorandum of Lease and the conditions and terms set forth in the Lease, the conditions and terms of the Lease will control and govern.

SIGNATURE PAGES FOLLOW

OWNER SIGNATURE PAGE TO
MEMORANDUM OF LEASE

IN WITNESS WHEREOF, the Parties have executed this MEMORANDUM OF LEASE
as of the date set forth above.

OWNER

The Round Mountain Water and Sanitation District

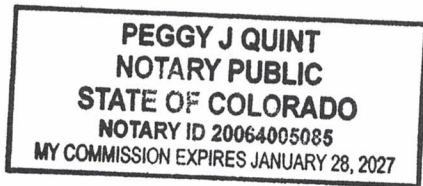
By: Charles Bogle
Name: CHARLES Bogle
Title: Authorized Representative

STATE OF Colorado)
)ss.
COUNTY OF Custer)

On March 25 2024, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Charles Bogle, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the within instrument.

WITNESS my hand and official seal.

Peggy J Quint
Notary Public
Commission Expires: January 28, 2027



COMPANY SIGNATURE PAGE TO
MEMORANDUM OF LEASE

IN WITNESS WHEREOF, the Parties have executed this MEMORANDUM OF LEASE
as of the date set forth above.

COMPANY

Pivot Energy Development LLC

By:

Name: Tom Hunt

Title: Authorized Representative

ACKNOWLEDGEMENT


STATE OF COLORADO)

)ss.

COUNTY OF DENVER)

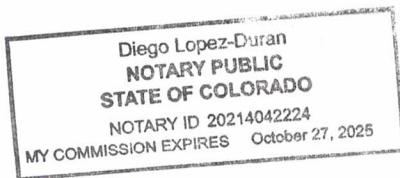
On March 7, 2024, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Tom Hunt, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the within instrument.

WITNESS my hand and official seal.



Notary Public

Commission Expires:



**EXHIBIT A TO
MEMORANDUM OF LEASE**

DESCRIPTION OF THE LAND

OWNER'S LAND:

THAT CERTAIN REAL PROPERTY LOCATED IN CUSTER COUNTY, COLORADO,
DESCRIBED AS:

Parcel	Total Parcel Acreage
0010229201	40

For Owner's title to the Land, reference is herein made to a deed dated November 2, 1983, and recorded at the Custer County Registry of Deeds at Reception Number: 134467.

LEASED AREA:

Total Acreage of Lease Area is twenty-five (25) Acres.



Parcel Summary

Parcel Number 0010229201
Location Address
Brief Tax Description SE4SE4 SEC 7 22 72 CONT 40A DESC BK: 109 P 225
(Note: The Description above is not to be used on legal documents.)
Tax District Rural Custer County (District 016)
Levy Rate 66.087
Property Usage
Acreage 40

[View Map](#)

Owner Information

ROUND MTN WATER &
SANITATION
PO BOX 86
WESTCLIFFE CO 81252-0086

**EXHIBIT B TO
MEMORANDUM OF LEASE**

DESCRIPTION OF THE EASEMENTS

EASEMENTS:

[Insert Legal Description]